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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/759,167

01/20/2004

Ronald D. Blum

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03/03/2006

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EXAMINER

MULLEN, THOMAS J

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/759,167

Applicant(s)

BLUM ET AL.

Examiner

Thomas J. Mullen, Jr.

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/13/06 & 1/30/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 14 and 16-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36-41 is/are allowed.
- 6) ☒ Claim(s) 1-12, 14 and 16-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/30/06</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

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1. The amendment filed 1/13/06 has been fully considered. The replacement drawing sheets are approved.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-12, 14 and 16-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 25 and 27 as amended, it is unclear whether the "floor covering" (line 2) has anything to do with the "electronic display device...in a plane substantially parallel to a floor" (lines 3-4)--note that none of the claim elements starting on line 3 in each claim are recited as being either physically or functionally "associated with" the "floor covering" on line 2.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1, 4-5, 19-20, 27-29 and 35 are rejected under 35 U.S.C. 102(a)\* as being anticipated by Lin (US 6617530).

\*(NOTE: the effective date of at least one of the rejected claims appears to be no earlier than the filing date of the present application, since the provisional application 60/441,408 filed 1/22/03 does not include at least some of the subject matter claimed herein.)

Lin discloses a floor-standing scale 10 (e.g. "bathroom" scale), note Fig. 1, which is inherently a "floor covering" in that it covers at least part of a floor on which it is placed. Scale 10 comprises an electronic display device 14, and it is apparent from Figs. 1-2 that the display device-portion of the scale 10 must be "in a plane substantially parallel to a floor"--i.e., the surface on which a person stands for weight measurement (note scale portion 12) is generally horizontal (and thus "in a plane substantially parallel to a floor"), and the display device 14 is

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shown to be at least approximately parallel to (or coplanar with) the standing surface. Thus, the electronic display device 14 is both "associated with" and "in a plane substantially parallel to" a floor per se. Further, the device 14 displays "electronically modifiable arbitrary content" which may include the weight of a person standing on the scale portion 12; the weight of the same person measured on a previous day; and the difference between the two (see Fig. 1, the Abstract and col. 3, line 62 to col. 4, line 1). Scale 10 further includes a "central processing unit" or controller (see the Abstract and col. 3, lines 62-63). As to claim 1, scale 10 further includes a sensing device (inherently present underneath scale portion 12), coupled to the controller and "associated with a specific location on the display device" (i.e., if the numeral figure shown in the lower left corner of display device 14 is the current day's weight of the person, the weight sensing device is inherently "associated with" that "location" on the display device), the sensing device inherently generating a "signal" to the controller to "cause a content of a display of the display device to be modified or newly generated at the specific location", as claimed. As to claim 27, scale 10 further includes a "signaling device" 26 (i.e. a speaker...for broadcasting...programmed messages", the programmed messages including "congratulatory messages" if the person standing on the scale has lost weight and "encouraging messages" if the person has gained weight, see steps 22 and 24 in Fig. 3 and col. 4, lines 2-7), the device 26 "emit(ting) a signal corresponding to a display content" of the display device 14, as claimed; alternately, if the numeral figure shown in the lower left corner of display device 14 is the current day's weight of the person, the other figures shown in the display (Fig. 1) would correspond to the claimed "signaling device".

Regarding claims 4-5, since scale 10 is measuring the "weight" of the person, it appears to be inherent that the sensing device (under the top surface of scale portion 12) would be "responsive to pressure" (of the weight of the person standing on scale portion 12) per se, in particular to generate a signal based on detecting a "change" in pressure (from no weight being applied to scale portion 12, to the full weight of the person being applied thereto).

Regarding claims 19-20, speaker 26 is an "audio device" (note e.g. "volume control dial" 28 associated with the speaker), and the "programmed messages" output by speaker 26 are "audio" output related to the displayed content (as discussed above); also, since speaker 26

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provides its audio output only through a particular face of the scale's housing (as shown in Fig. 2), the speaker 26 is inherently "directional" in nature.

Regarding claim 28, where the "signaling device" may be the figures shown in the display other than a person's current weight (Fig. 1), as discussed above, it appears to be inherent that these "other" signals "comprise a light" per se, since the display is an electronic visual display.

Regarding claim 29, as discussed above the "signaling device" (speaker 26) outputs a "sound" signal.

Regarding claim 35, a person standing on the scale portion 12 is considered equivalent to the sensing device "detect(ing)...a proximity of a person".

6. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin.

One skilled in the art would have recognized that the signaling device (speaker) 26 in Lin would normally be "fastened" in some manner to a "support"-portion of the scale's housing, and would normally be coupled by a "wired" connection to the controller; however, it would have been obvious to provide any desired arrangement for the signaling device, such as "free standing" and/or having a "wireless connection", based on the needs and/or desires of a particular customer and/or a particular environment of use.

7. Claims 36-41 are allowed.

Claims 2-3, 6-12, 14, 16-18, 21-24 and 30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 25-26 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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The art cited by applicant 1/30/06 has been considered. Sepponen (US 5620003, note Figs. 5a-5b) and Honda et al (US 6963035, note Fig. 1) are cited to further show the state of the art.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

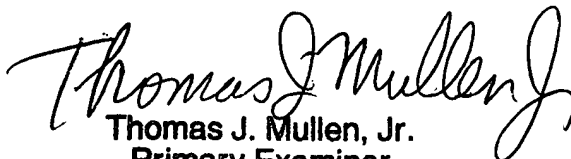
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mullen, Jr. whose telephone number is 571-272-2965. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJM

  
Thomas J. Mullen, Jr.  
Primary Examiner  
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